

## **Divisions Affected - ALL**

### **CABINET 20 July 2021**

## **SEND High Needs Funding for Academic Year 2021-22**

### **Report by Corporate Director of Children's Services/Education**

#### **RECOMMENDATIONS**

The Cabinet is RECOMMENDED to

- a) Agree an increase in Top-Up funding for Early Years settings, mainstream Primary, mainstream Secondary and Special Schools. The increase will only be available in the year 2021-2022.
- b) Note that for Secondary Schools, the increased top-up is applicable where the formulaic approach is insufficient for schools to meet the needs of the child. This decision would not reduce the amount of Top-Up funding a Secondary school currently receives.
- c) Note that system reform is required for SEND in Oxfordshire. A public consultation on this is planned for later in 2021. The interim arrangements above for Top-Up funding are a holding position while the detailed work in this complex area are worked through.

#### **Executive Summary**

1. For mainstream schools, the national expectation is that there is use funding already in their budget to provide services for children with SEND. Top-Up funding is additional funding allocated to a setting or school to enable a pupil with an Education, Health and Care (EHC) Plan to participate in education and learning. Mainstream schools require adequate and proportionate funding to be able to meaningfully include children with special educational needs. Top-Up funding is from the High Needs Block, part of the Dedicated Schools Grant.
2. For the academic year commencing September 2020, Cabinet agreed increases in Top-Up funding to Early Years, Primary and Secondary schools in September 2020 and to Special Schools in January 2021.
3. This report recommends that the increase in Top-Up funding for 2020-21 is maintained for the academic year 2021-22. This an interim arrangement

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pending consultation on whole system reform (including a full funding formula review for implementation in September 2022).

4. If the increase were not agreed for the new academic year, then the High Needs deficit would initially reduce. However, a key strand of the SEND Strategy is to support children to remain in mainstream schools. By not continuing the current level of Top-Up funding, it is likely that some children will not remain in mainstream education, moving to more expensive provision and possibly long-term higher costs would be incurred by this budget.

### **Background**

5. Cabinet approved Top-Ups for the Academic Year 2020-21 in September 2020 and January 2021 in recognition that accessing and providing support for children and young people with SEND in Oxfordshire has become increasingly challenging.
6. Many of our schools have worked hard to maintain inclusive cultures for SEND. We want to support schools and settings in this practice by providing them with another year of Top-Ups.
7. Broad reforms to SEN provision and arrangements in Oxfordshire are needed. For the past five years our spending on SEND children and young people have exceeded our budgets. The population of Oxfordshire is changing, with increasing demand and complexity of needs of some of our most vulnerable residents. It is essential that we have high-quality, locally available provision to deliver successful outcomes for children and young people with SEND in Oxfordshire.
8. This support must be provided within the resources available to us and we must shift the way we provide services, developing a more inclusive approach to supporting children and young people with SEND.
9. We will seek feedback from residents and stakeholders via a consultation later this year on the priorities and opportunities to change the way that we support children and young people with SEND.

### **How Top-Up funding currently works**

10. For mainstream schools, the national expectation is that there is use funding already in their budget to provide services for children with SEND.
11. Top-Up funding is additional funding allocated to a setting or school to enable a pupil with an EHC Plan to participate in education and learning. The way this funding is currently calculated differs between Early Years settings, primary and secondary schools and special schools:
12. Top-Up funding Years settings is calculated on a set hourly rate. This is based on the support that each child requires in order to deliver the provision detailed

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specified in the individual, statutory EHC Plan. Early Years settings and nursery classes do not have delegated funding so all funding detailed in the EHC Plan is provided to the setting from the High Needs Block. When a child leaves the setting, the funding ceases and moves with the child.

13. For mainstream schools, the expectation is that schools make additional provision up to a nationally prescribed threshold from within funding directly delegated into their budget; this threshold is up to £6,000 per child. Top-Up funding from the High Needs Block is in addition to this funding.
14. Top-Up funding for children with an EHC Plan in mainstream Primary schools is calculated based on the number of additional hours of support required to meet the provision individually specified in a child's EHC Plan. When a child leaves the school, the individually assigned top-up funding ceases.
15. For mainstream Secondary schools, Top-Up funding is delegated into the school based on a formula rather than individually assigned; it does not increase if more children with an EHC Plan are placed at a school and headteachers have to have plan provision mindful of any in-year entrants to the school.
16. Top-Up funding for special schools is based upon a formula and averaged for each child. The formula therefore pays the same amount for each child regardless of the needs of the child or the special educational provision that the school needs to make. The formula was designed to enable special schools to plan via predictability and stability of funding.
17. The above formulas have not been reviewed for a number of years.

### **New Approach to Top-Up funding**

18. A child-led approach to the allocation of additional funding is being developed with input from schools, settings and parents. Detailed financial modelling will be carried out to ensure accuracy and reliability of the new approach, stability and predictability in budget planning for schools and that the arrangements can be delivered within the available financial envelope of the High Needs Block.
19. This new approach will sit alongside system wide reforms that promote inclusion and the best possible outcomes for children and young people in Oxfordshire.

### **Financial Implications**

20. Dedicated School Grant (DSG) to Local Authorities is allocated in blocks. There are blocks of funding for Early Years, Schools, High Needs and Central School Services. The blocks are ringfenced for 2021-22 (meaning that funding can only be spent on the services/provisions covered by the blocks, unless specific arrangements are made).

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21. The Dedicated Schools Grant High Needs Block (HNB) consists of all funding for education provision for high needs learners from ages 2 to 25. The High Needs funding for Oxfordshire is £81.9m.
22. The forecast for High Needs was included in the Budget and Business Planning 2021/2 papers to Cabinet in January 2021. The High Needs deficit was reported to Cabinet as £11.7m. This deficit assumed the continuation of the Top-Ups at the same rate as last year.
23. Nationally, surveys have been conducted to assess the level of High Needs demand and budget deficits. In May 2021, the Society of County Treasurers survey on behalf of its 40 members indicated that High Needs Deficits are estimated at £280m in 2021-22.
24. For 2021-22, Schools Forum considered and agreed an option that delivered the National Funding Formula to schools in full and agreed a transfer from the Schools block to the High Needs Block of £1m to contribute to the continuation of the enhancement to High Needs Top-Up rates agreed for 2020-21.
25. The continuation of the Top-Up arrangements is expected to cost £3.2m for the Academic Year.
26. Oxfordshire is forecasting increasing annual deficits driven by the growth in number and complexity of the learners supported. The strategic work continues in order to ensure that services are better targeted to meet demand; despite this, it is unlikely that the deficit can be eradicated in the face of increasing numbers of children requiring support, parental preference and the dominant provider market.

Comments checked by Sarah Fogden, Finance Business Partner

### **Legal Implications**

27. Section 45 – 53 of the School Standards and Framework Act 1998 detail the funding framework governing Schools' finance.
28. The Children and Families Act 2014 detailed extensive education reforms for children and young people with special educational needs. The Children and Families Act 2014 sets out local authority statutory obligations and is supported by a SEND Code of Practice.
29. Further regard is required of the Equality Act 2010 and the Public Sector Equality Duty (PSED). There being a requirement when taking a decision for due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate unlawful discrimination. The analysis of the impact of High Needs funding requires further account to be taken of equality impact considerations.

Comments checked by Sukdave Ghuman, Head of Legal Services

## **Equality & Inclusion Implications**

30. The continued payments to schools and settings will support the education of children and young people with Special Educational Needs and Disabilities. They face significantly greater challenges in learning than their peers or have a disability which hinders their access to the teaching, curriculum and facilities typically found in mainstream educational settings.

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